CAUSE NO. GV3-04676

STATE OF TEXAS, *Plaintiff*	§	IN THE DISTRICT COURT OF
v.	§	TRAVIS COUNTY, TEXAS
AMERICAN HABILITATION SERVICES, INC., d/b/a INDIAN WELLS HOUSE, *Defendant*	§	250th JUDICIAL DISTRICT

STATE'S ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

The State of Texas, Plaintiff ("State"), acting by and through the Attorney General of Texas, GREG ABBOTT, and at the request of the Texas Department of Human Services ("TDHS" or "Department"), files this Original Petition, complaining of AMERICAN HABILITATION SERVICES, INC., d/b/a INDIAN WELLS HOUSE, Defendant, because it allowed one of its staff members to sexually abuse one of the residents of its facility and failed to respond appropriately to the allegations, and for cause of action shows the following:

I. DISCOVERY PLAN

1.1 Discovery is intended to be conducted under Level 2, pursuant to TEX. R. CIV. P.190.3. However, due to the nature of this lawsuit, the State reserves the right to request a tailored discovery plan pursuant to TEXAS RULE OF CIVIL PROCEDURE 190.4 at a later date.

II. PARTY PLAINTIFF

2.1 This suit is brought in the name of the State of Texas by and through its Attorney General, GREG ABBOTT, and his Elder Law and Public Health Division in the public interest and

under the authority granted to him by the Constitution, statutes and laws of the State of Texas, including Chapter 252 of the TEXAS HEALTH AND SAFETY CODE.

2.2 This suit is further brought pursuant to the request of the Commissioner of TDHS as authorized by Chapter 252 of the TEXAS HEALTH AND SAFETY CODE.

III. DEFENDANT

3.1 Defendant, AMERICAN HABILITATION SERVICES, INC., d/b/a INDIAN WELLS HOUSE is a corporation that operates a licensed Intermediate Care Facility for the Mentally Retarded, located at 4702 Indian Wells Drive, Austin, Texas 78747. At all material times relevant to this lawsuit, this Defendant was licensed by TDHS to operate INDIAN WELLS HOUSE. Service of process on AMERICAN HABILITATION SERVICES, INC., may be accomplished by serving its registered agent Capitol Corporate Services, Inc., at 800 Brazos, Suite 1100, Austin, Texas 78701.

IV. JURISDICTION

4.1 This Court has jurisdiction over this case pursuant to TEX. HEALTH & SAFETY CODE § 252.064(c).

V. VENUE

5.1 Venue is proper in Travis County, Texas pursuant to TEX CIV. PRAC. & REM. CODE §15.002(a)(1).

VI. PURPOSE OF SUIT

6.1 The purpose of this suit is to collect civil penalties from Defendant because Defendant has violated the minimum standards applicable to Intermediate Care Facilities for the Mentally Retarded ("ICF-MR") in Texas, threatening the health and safety of the residents at the facility.

VII. APPLICABLE LAW

7.1 Section 252.036 of the TEXAS HEALTH & SAFETY CODE, authorizes TDHS to adopt, publish and enforce minimum standards for ICF-MRs which ensure the health, safety and comfort

of ICF-MR residents. According to this authority, TDHS has promulgated minimum licensing standards for ICF-MRs at 40 TEX. ADMIN. CODE Chapter 90.

7.2 Section 252.064, TEXAS HEALTH & SAFETY CODE, provides that a person who violates Chapter 252 or a rule adopted under that chapter is liable for a civil penalty of not less than $100, or more than $10,000, for each violation if TDHS determines that the violation threatens the health and safety of a resident. The statute also provides that each day of a continuing violation constitutes a separate ground for recovery.

VIII. EXHIBITS

8.1 In support of this petition, the State relies upon and adopts by reference, as if set forth verbatim, the attached exhibits:

A. Referral letter from TDHS to Attorney General John Cornyn dated February 14, 2002, a true copy of which is attached hereto as **Exhibit A**; and

B. Form 2567 Statement of Deficiencies dated June 1, 2001, from TDHS's investigation of the Defendant's facility, a true copy of which is attached hereto as **Exhibit B.**

IX. STATEMENT OF FACTS

9.1 Indian Wells House, located at 4702 Indian Wells Drive, Austin, Texas 78747, is a facility as defined in TEX. HEALTH & SAFETY CODE § 252.002(4). The facility is home to several individuals who have mental illness and/or mental retardation. At all material times, Defendant owned, operated, and/or managed the Indian Wells House facility.

9.2 Specific pleading of the facts at issue requires description of conditions and occurrences of an intimate and private nature involving individuals who are not parties to this suit. Disclosure of such identity would subject these individuals and their families to needless and painful public scrutiny, intruding deeply into their privacy without serving the ends of justice. Therefore, such disclosure is prohibited by TEX HEALTH & SAFETY CODE § 252.126 and 40 TEX. ADMIN. CODE

§ 90.216.

9.3 The conditions described in the following paragraphs, and set forth more fully in **Exhibit B** attached hereto, d escribe some of the facts found by TDHS surveyors during their investigation of Indian Wells House.

9.4 TDHS surveyors conducted an investigation of the Defendant's facility, interviewed staff members and residents, and found that the facility failed to ensure that one individual was free from psychological and sexual abuse by its staff. The Defendant's facility also failed to conduct a thorough investigation of the allegations of abuse, failed to respond appropriately by notifying the police, and failed to provide the individual with an appropriate medical exam after the abuse.

9.5 The Defendant owns and operates a workshop in San Marcos, Texas, where the residents of Indian Wells House go for training and activities on a daily basis during the week. The director of the workshop ("Workshop Director") is an employee of the Defendant.

9.6 On or about March 8, 2001, one individual, a 32 year-old woman with mild mental retardation who resides at Indian Wells House, revealed to staff that on or about February 27, 2001, the Workshop Director sexually abused her. She revealed that on that day, the Workshop Director had invited her to go along with him to the local hardware store to purchase some step stools and that he then took her to his house where he had sexual intercourse and oral intercourse with her. A receipt from the hardware store dated February 27, 2001, shows the Workshop Director did purchase three step stools, as the individual claimed. The individual also told staff members that he told her not to tell anyone. The individual also told staff members that on or about February 26, 2001, the Workshop Director had driven her in his car her to a football field parking lot, where he fondled her, and that he had fondled her breasts at his house on another previous occasion.

9.7 After the individual revealed this information to staff on March 8, 2001, the Defendant's facility conducted a cursory investigation, suspended the Workshop Director

temporarily, and quickly decided that the individual's allegations were unsubstantiated. The Defendant's facility did not notify the police. The Workshop Director returned to work on or about March 12, 2001. The Defendant's facility did not provide the individual with an appropriate medical examination to determine if any injury had occurred.

9.8 On or about March 13, 2001, the individual's mother took her to the San Marcos Police Department to give a statement. The police investigated at Indian Wells House and at the workshop and found sufficient evidence to arrest the Workshop Director on or about April 27, 2001. He was charged with sexual assault.

9.9 From the time the Workshop Director returned to work on or about March 12, 2001, to the time he was arrested on or about April 27, 2001, the staff at Indian Wells House continued to send the individual to the workshop and subject her to the Workshop Director's influence, control, and manipulation.

X. VIOLATIONS OF LAW

10.1 TDHS surveyors investigated the allegations described in the Statement of Facts section above from May 30, 2001 to June 1, 2001, and found the allegations of abuse were substantiated. As a result of that investigation, the facility was cited for the following violations:

10.2 The facility failed to exercise general policy, budget, and operating direction over the facility as required by 40 T.A.C. § 90.42(c) and 42 C.F.R. § 483.410(a), cited at Tag W-104, for failure to recognize and respond to allegations of psychological and sexual abuse.

10.3 The facility failed to develop and implement written policies and procedures that prohibit mistreatment, neglect, or abuse of the clients as required by 40 T.A.C. § 90.42(c) and 42 C.F.R. § 483.420(d)(1), cited at Tag W-127, for failure to protect the individual from the perpetrator after the allegations were made.

10.4 The facility failed to ensure that clients are not subjected to physical, verbal, sexual,

or psychological abuse or punishment as required by 40 T.A.C. § 90.42(c) and 42 C.F.R. 483.420(a)(5), cited at Tag W-149, for failure to provide an appropriate medical examination following alleged sexual abuse.

10.5 The facility failed to ensure that all allegations of mistreatment, neglect, or abuse, as well as injuries of unknown source, are reported immediately to the administrator or to other officials in accordance with State law through established procedures as required by 40 T.A.C. § 90.42(c) and 42 C.F.R. § 483.420(d)(2), cited at Tag W-153 for failure to report throughout the facility's chain of command and failure to report to police.

10.6 The facility failed to thoroughly investigate and prevent further potential abuse while the investigation is in progress as required by 40 T.A.C. § 90.42(c) and 42 C.F.R. § 483.420(d)(3), cited at Tag W-154 for failure to thoroughly investigate.

10.7 The facility failed to thoroughly investigate and prevent further potential abuse while the investigation is in progress as required by 40 T.A.C. § 90.42(c) and 42 C.F.R. § 483.420(d)(3), cited at Tag W-155 for failure to suspend the perpetrator while the "addendum" phase of the investigation was in progress.

XI. JURY DEMAND

11.1 The State requests a trial by jury, pursuant to the Texas Constitution article 1, § 15, and in accordance with TEX. R. CIV. P. 216.

XII. PRAYER

12.1 For these reasons, the State respectfully requests that upon final trial of the merits, the Court award the State the following relief:

A. Not less than $100, nor more than $10,000, for each act in violation of Chapter 252 that threatened the health and safety of a resident, under TEX. HEALTH & SAFETY CODE § 252.064; and post-judgment interest;

B. Statutory attorneys fees; and

C. All other relief to which the State may show itself to be justly entitled.

Respectfully submitted,

GREG ABBOTT
Attorney General of Texas

BARRY R. MCBEE
First Assistant Attorney General

EDWARD D. BURBACH
Deputy Attorney General for Litigation

LOWELL A. KEIG
Chief, Elder Law and Public Health Division

SUZANNA L. BASINGER
State Bar No. 24029438
Assistant Attorney General
Elder Law and Public Health Division
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548
Telephone: (512) 936-1316
Facsimile: (512) 499-0712

ATTORNEYS FOR THE STATE

TEXAS
Department of
Human Services

COMMISSIONER
James R. Hine

February 14, 2002

The Honorable John Cornyn
Attorney General of Texas
P.O. Box 12548, Capitol Station
Austin, Texas 78711-2548

Attention: Howard Baldwin

Dear General Cornyn:

Re: Indian Wells House, Austin, Texas – Facility ID #007368

The Texas Department of Human Services has determined that the above-referenced licensed intermediate care facility for the mentally retarded is operating in violation of Chapter 252 of the Health and Safety Code. It has further been determined that the violation threatens the health and safety of the residents within the facility. Please file suit for civil penalties and any other relief which may be appropriate.

Pertinent information for the handling of this matter is enclosed. Should you have any questions or require additional information, please contact Susan E. Davis, Assistant General Counsel, Compliance Section, at 438-3099.

Thank you for your prompt attention to this matter.

Sincerely,

James R. Hine
Commissioner

JRH:jbm

Enclosure

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 000	INITIAL COMMENTS This 2567 was written in response to complaint re-investigation #31093 and incident re-investigation #20588. The exit date was 6/01/01. The following deficiencies were cited. On 6/21/01 a visit was conducted as a result of the credible allegation. No additional findings were noted. Based on action taken by the facility it is recommended that the 23 day termination be changed to a 90 day termination.	W 000	Preparation and /or execution of this Plan of Correction does not constitute Admission or Agreement by the Provider of the truth of the facts alleged or conclusions set forth in the Statement of Deficiencies. The Plan of Correction is prepared and/or executed solely because it is required by the provision of Federal and State Law. W 102 All allegations are being recorded in a log, verbatim in the order received. Log is kept by the Administrator with monitoring by the Regional Administrator to ensure that all allegations are correctly identified and assigned to be investigated. This was effective on August 5, 2001. W104 A policy has been implemented requiring the administrator to report all allegations of physical harm or sexual abuse to the police as well as to TDHS. The policy further requires that no employee that no employee shall return to work while he/she is under investigation by the police, TDHS or AHS. Staff will in-serviced on this new policy by August 5, 2001. All employees and consumers will be trained in a new Rights, Abuse, and Neglect curriculum by August 5, 2001.	
W 102	483.410 GOVERNING BODY AND MANAGEMENT W483.410 Condition of participation: Governing body and management. This CONDITION is not met as evidenced by: Based on interviews and record review it was determined the facility governing body failed to ensure the health and safety of residents and provide protection from sexual abuse. Refer to: W 104; W 122; W 127	W 102		
W 104	483.410(a)(1) GOVERNING BODY The governing body must exercise general policy, budget, and operating direction over the facility. This STANDARD is not met as evidenced by:	W 104		

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE — TITLE: Administrator — (X6) DATE: 8/14/01

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. Except for nursing homes, the findings above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation.

FORM HCFA-2567(02-99) ATG: 15000 Event I: V0KQ11 Facility I:

EXHIBIT tabbies B

INDIAN WELLS - 300

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 104	Continued From page 1 Based on record review and interviews, it was determined the facility failed to recognize and respond to allegations of sexual abuse. The findings are: Review of a Facility Investigation Report dated 03/12/01 noted that an allegation of sexual abuse by the company owned and operated workshop staff member was made 03/08/01. According to the report, the allegation was unsubstantiated. Interview with the facility administrator on 06/01/01 at 3:00 pm revealed he viewed the issue as closed. Interview with the facility assigned investigator on 05/30/01 at 2:30 pm revealed the alleged perpetrator had been arrested at the workshop on 04/26/01. Interview with the investigating detective at the police department on 05/31/01 at 10:45 am revealed the alleged perpetrator had been arrested for sexual assault. Interview with the facility administrator and the facility investigator on 06/01/01 at 3:30 pm revealed that after the alleged perpetrators arrest, they did not look at the investigation again or make any changes in the system. The administrator noted that the alleged perpetrator was suspended after his arrest but did still have his position pending the outcome of the legal case. Interview with the administrator revealed Individual 1 mother did have a meeting with him on 03/13/01 after the facility had already ended the investigation. He noted that she alleged another allegation of sexual abuse by the same alleged perpetrator. He stated he told the investigator to look into it but did not follow-up on it. He also noted that he told the mother that the matter was closed with them and she could go to the police.	W 104		

INDIAN WELLS - 301

Sample

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45C897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 122	483.420 CLIENT PROTECTIONS W483.420 Condition of participation: Client protections. This CONDITION is not met as evidenced by: Based on record review and interviews, it was determined the facility failed to enure the individuals in the facility were protected from sexual abuse, allegations of sexual abuse were reported immediately to the administrator and the police, allegations were investigated and residents were protected during the investigations. See evidence at W127, W149, W153, W154, W155.	W 122	See W127.	
W 127	483.420(a)(5) PROTECTION OF CLIENTS RIGHTS The facility must ensure the rights of all clients. Therefore, the facility must ensure that clients are not subjected to physical, verbal, sexual or psychological abuse or punishment. This STANDARD is not met as evidenced by: Based on interviews and record review the facility failed to ensure that 1 of 6 individuals was protected from psychological and sexual abuse (Individual #1). A. Interview on 5/31/01 at 5:20 p.m. with Staff B revealed that a few weeks prior to 2/27/01 individuals #1 and #2 told her that they and the other housemates had been riding in the van and the Workshop Director (alleged perpetrator) was driving. Staff B said that Individuals #1 and #2 told her that Individual #1 was sitting in the front passenger seat.	W 127		

INDIAN WELLS - 302

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45C897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE	(X5) COMPLETE DATE
W 127	Continued From page 3 Staff B said that they told her that he grabbed the arm of Individual #1 and pulled her towards him and stuck his tongue in and out of his mouth and tried to french kiss her. Staff B said that she did not report this incident. Additionally, the interview revealed that on 3/03/01 that Staff B was driving the van and the individuals were in the van. She said that Individual #1 was sitting in the front passenger seat. She said that she started crying for no apparent reason and said, "He is such a jerk! I am such a bitch! How was I supposed to know that he was married?" Staff B said that on 3/04/01 that Individual #1 was upset and started making the same statements. She said she called the Lead House Manager and advised her of Individual #1's behaviors. Staff B said she asked her how she should document the behavior. Staff B said that the Lead House Manager told her not to go into a lot of detail in the progress note. She also told Staff B to use the Workshop Director's (alleged perpetrator) working title instead of his name. Staff B said the Lead House Manager told her to call Staff G, one of the facility investigators, and report the incident. Staff B said she called Staff G and she informed her that she was not the person that Staff B needed to talk to. Staff B said she paged Staff J, the on-call Qualified Mental Retardation Professional (QMRP), but she never returned her page. She said that eventually the Lead QMRP, who is also one of the facility investigators, called her. She said she informed him of the incident and he said he would meet with the house managers the next morning and discuss the incident. Staff B said that Individual #1 did not have a history of making false allegations and that her story had remained consistent during the past two months.	W 127	Preparation and /or execution of this Plan of Correction does not constitute Admission or Agreement by the Provider of the truth of the facts alleged or conclusions set forth in the Statement of Deficiencies. The Plan of Correction is prepared and/or executed solely because it is required by the provision of Federal and State Law. W127 A policy has been implemented requiring the administrator to report all allegations of physical harm or sexual abuse to the police as well as to the TDHS. The policy further requires that no employee shall return to work while he/she is under investigation by either the police, TDHS or AHS. The State Quality Advisor will train the Administrator, Investigator, and QMRP's on this new policy by August 5, 2001. All other staff will be trained on this policy, by the Administrator and/or State Quality Advisor, by August 5, 2001. All employees and consumers will be trained in a new Rights, Abuse and Neglect curriculum by August 5, 2001. The Acting Workshop Director and Administrator are no longer with the company, effective June 14, 2001. The Investigator was relieved of investigative duties effective June 6, 2001. This will remain in effect until he can be re-trained.	

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 127	Continued From page 4 B. Interview on 5/30/01 at 3:50 p.m. with Individual #1 revealed that prior to 2/27/01, she and her housemates were in the van and the Workshop Director (alleged perpetrator) was driving the van. She said that he drove the van to his house to pick up some food for a potluck luncheon. Individual #1 said the Workshop Director (alleged perpetrator) asked her to accompany him inside the house to assist him. She reported that when they were in the kitchen he placed his hand on top of her blouse and touched her breast. She said that he told her not to tell anyone. Individual #1 said when they returned to the workshop she did not tell anyone. The interview revealed that one morning at the workshop at approximately 10:00 a.m. the alleged perpetrator asked Individual #1 to accompany him to local hardware store. Individual #1 said the Workshop Director (alleged perpetrator) bought three step stools at the local hardware store. She said when they left the hardware store she thought they would go back to the workshop but instead he drove them to his house. Individual #1 said that when they walked into his house, the Workshop Director (alleged perpetrator) turned on the t.v. and then turned it off. She said he took her to the bedroom and "raped her and put his penis "inside her" and in her mouth. She said he told her not to tell anyone. She said they returned to the workshop at approximately 11:00 a.m. and she did not tell anyone about the incident. C. Interview on 6/01/01 at 2:12 p.m. with Individual #1 revealed that prior to 2/27/01 that one morning at the group home the Workshop Director (alleged perpetrator) was training Staff H (a new hire) regarding the van route. Individual #1 said that Staff	W 127	A policy has been implemented requiring a medical examination following any allegation of physical or sexual abuse. The person making the allegation may choose to have an RN conduct the examination for instances of physical abuse. For sexual abuse, the person will be strongly encouraged to see a physician for a physical examination, gathering of evidence and any recommended preventive treatment. Training was conducted by the Quality Advisor for the Administrator, QMRP's, Program Manager and Nursing Staff by August 5, 2001.	

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 127	Continued From page 5 H was driving the van and the Workshop Director (alleged perpetrator) was in his car. She said that she and her housemates were in the van and he asked her if she wanted to ride with him in his car and she told him, "Sure." Individual #1 said that the van followed the Workshop Director's (alleged perpetrator) car to another facility group home located in south Austin. She said that after they left the group home and they were on the highway (I-35) he turned off the main road and went to a football field parking lot. Individual #1 said that he turned the car air-conditioner on high and placed his right hand in front of it. She said he told her his hand was cold and would she warm it for him? She said she told him to sit on it. She said he placed his hand inside her blouse and inside her bra and touched her breast. She said that next he placed his hand between her legs in her genital area. She said that he was watching for the van and when he thought he saw it he put his car in drive and left the parking lot. Individual #1 said that when they pulled into the parking lot at the workshop the van was also pulling into the parking lot. Interview with the Lead QMRP revealed that Staff H's first day to work was 2/26/01. D. An interview was conducted on 5/31/01 at 1:40 p.m. with the Acting Workshop Director. She said that one morning at the workshop Individual #1 was not there. The Acting Director said she asked Individual #2 if she knew where Individual #1 was? She said that Individual #2 told her that Individual #1 had gone to a local hardware store with the Workshop Director (alleged perpetrator). When Individual #1 returned to the workshop she said that she had gone to a local hardware store with the Workshop Director (alleged perpetrator). The Acting Workshop Director said that Individual #1 did not say anything else.	W 127		

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 127	Continued From page 6 Staff E said that the alleged perpetrator did not inform her that Individual #1 was leaving the workshop with him. She said that Individual #1 did not have a history of making false allegations and that her story had remained consistent. During the interview, the Acting Workshop Director said that on 3/8/01 at approximately 1:15 PM, Individual #1 told her that the Workshop Director (alleged perpetrator) had raped her. She said that Individual #1 was crying and appeared upset. The Acting Workshop Director said that she went to Staff G's office but she was gone for the day (Staff G is a facility investigator). The Acting Workshop Director said that she told Individual #1 not to tell anyone about the incident and that they would tell Staff G the next morning. E. A letter that was written by Individual #1's mother was reviewed on 5/30/01. The review revealed that her daughter (Individual #1) phoned her on 3/12/01 to tell her that the Workshop Director (alleged perpetrator) was back at the workshop. The mother said her daughter stated she was afraid. F. An interview was conducted on 5/31/01 at 1:00 p.m with the Lead QMRP who is also a facility investigator. The interview revealed that the Workshop Director (alleged perpetrator) was suspended on 3/09/01 for one day while the investigation was conducted. He said the Workshop Director (alleged perpetrator) returned to work at the workshop on 3/12/01 and continued to work at the workshop until 4/27/01 when he was arrested. G. Review on 5/30/01 of Individual #1's record revealed she did not have a history of making false	W 127		

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45C897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 127	Continued From page 7 allegations. H. Review of a local hardware store' receipt on 5/30/01 verified that 3 step stools had been purchased on 2/27/01 at 9:30 a.m. An interview was conducted on 6/1/01 at 3:20 p.m. with the Facility's Administrator. He said that the facility did not report the alleged rape to the local Police Department. He said that since the alleged incident on 2/27/01, Individual #1 had not received medical treatment and evaluation. The administrator said that after the Workshop Director (alleged perpetrator) was arrested on 4/26/01, the facility did not re-evaluate their investigation of the alleged sexual abuse. The Administrator was notified that an immediate jeopardy was being declared. An interview was conducted on 6/5/01 at 1:30 p.m. with Staff I, Licensed Vocational Nurse. The interview revealed that on 3/08/01 at approximately 5:00 p.m. she went to the group home and conducted an external examination of Individual #1. She said the exam was conducted due to an allegation of sexual abuse. Staff I emphasized that the exam was only external and that she was looking for bruising, redness, swelling or vaginal discharge. She said none of these symptoms were present. She confirmed that Individual #1 did not receive medical treatment and evaluation. Staff I said that she wasn't qualified to do an internal exam and that she had not been trained on how to examine for sexual abuse/trauma.	W 127		
W 148	483.420(c)(6) COMMUNICATION WITH CLIENTS, PARENTS &	W 148		

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
	The facility must notify promptly the client's parents or guardian of any significant incidents, or changes in the client's condition including, but not limited to, serious illness, accident, death, abuse, or unauthorized absence. This STANDARD is not met as evidenced by: Based on interview and record review the facility failed to notify the family of the allegations of sexual abuse for 1 of 6 individuals (Individual #1). Interview on 6/05/01 at 11:45 a.m. with Individual #1's father revealed that the facility did not contact him or the mother of the allegations of sexual abuse. He said that his daughter (Individual #1) called him on the evening of 3/08/01 and told him about the alleged incident on 2/27/01. He said he called the Administrator of the facility on 3/09/01 to discuss the allegation. Individual #1's father said the facility did not contact him at anytime regarding the allegations. Record review on 6/01/01 revealed that Individual #1's mother wrote a letter dated 3/23/01. The letter was addressed to the police detective assigned to investigate the allegations of sexual abuse. She stated in her letter that she had never been notified by the facility of the allegations.		W148 Administrator and/or designee will in-service QMRP, Group Home Manager and facility staff on AHS policy regarding prompt communication with consumer's families, guardians of any significant incidents, or changes in the consumer's condition by August 5, 2001. Weekly Team Management meeting will assist in monitoring family and guardian communications.	
W 149	483.420(d)(1) STAFF TREATMENT OF CLIENTS The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect or abuse of the client This STANDARD is not met as evidenced by:	W 149		

INDIAN WELLS - 308

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45C897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 149	Continued From page 9 Based on record review and interview on 5/30-6/1/01, it was determined the facility failed to ensure that medical evaluation and follow-up treatment had been done following an allegation of sexual abuse for 1of 1 allegation involving Individual #1. The findings are: Review of the Facility Investigation Report dated 3/12/01 noted that Individual #1 had alleged on 3/8/01 she had been sexually abused by a workshop staff member. According to the report, the nurse conducted a physical examination which resulted in "nothing being found." There was no other indication that any other medical evaluation had been conducted. Review of the nursing notes revealed an entry dated 3/8/01 at 6:00 pm. The entry noted "No bruises,redness, or swelling noted. No vaginal discharge noted. No complaint of pain or discomfort except (Individual #1) was crying at this time." There was no other documentation available to indicate any further medical evaluation or follow-up had been completed. Interview with the facility administrator on 6/1/01 at 3:00 pm revealed the nursing staff sent to evaluate Individual #1 did not have experience or training in conducting evaluations of alleged sexual assault victims. He further noted that the nurse had "basic Licensed Vocational Nurses (LVN) training." The administrator noted that no other medical follow-up had been conducted.	W 149	W149 A policy has been implemented requiring a medical examination following any allegation of physical or sexual abuse. The person making the allegation may choose to have an RN conduct the examination for instances of physical abuse. For sexual abuse, the person will be strongly encouraged to see a physician for physical examination, gathering of evidence and any recommended preventive treatment. Training will be conducted for the Administrator, QMRP's, Program Manager and Nursing Staff by August 5, 2001. This policy will be reiterated to all staff by Staff Development Coordinator by August 5, 2001.	

INDIAN WELLS - 309

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45C897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 153	483.420(d)(2) STAFF TREATMENT OF CLIENTS The facility must ensure that all allegations of mistreatment, neglect or abuse, as well as injuries of unknown source, are reported immediately to the administrator or to other officials in accordance with State law through established procedures. This STANDARD is not met as evidenced by: Based on interviews the facility failed to report allegations of sexual abuse for 1 of 6 individuals (Individual #1). The findings are: Interview on 5/31/01 at 1:40 p.m. with Staff E revealed that she worked as a trainer with Individual #1 at the workshop. She said that on the afternoon of 3/08/01 she had taken the individuals on a community outing. During the outing at approximately 1:15 p.m., Individual #1 told her that the Workshop Director (alleged perpetrator) had french kissed her and raped her. Staff E said that they returned to the workshop at approximately 2:50 p.m. Upon returning to the workshop, she said that she and Individual #1 looked for the facility investigator but she was gone for the day. Staff E said she told Individual #1 that she (Staff E) would talk with the investigator the following morning. She said she told Individual #1 not to talk to anyone about this and told her she needed to call her father. Interview on 5/31/01 at 5:20 p.m. revealed that Staff B worked with Individual #1 at the group home. She said that a couple of weeks prior to the incident on 2/27/01, Individuals #1 and #2 told her that they and the other house mates had been riding in the van when Workshop Director (alleged perpetrator) was	W 153	W153 All employees and consumers were trained in a new Rights, Abuse and Neglect curriculum that includes understanding and exercising rights, understanding and identifying abuse and neglect, and reporting procedures for all components by August 5, 2001. The Acting Workshop Director and the Administrator are no longer with the company effective June 14, 2001.	

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45C897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 153	Continued From page 11 driving. Staff B said that Individuals #1 and #2 told her that Individual #1 was sitting in the front passenger seat. Staff B said that they told her that he grabbed the arm of Individual #1 and pulled her towards him and stuck his tongue in and out of his mouth and tried to french kiss her. Staff B said that she did not report to this incident.	W 153		
W 154	483.420(d)(3) STAFF TREATMENT OF CLIENTS The facility must have evidence that all alleged violations are thoroughly investigated. This STANDARD is not met as evidenced by: Based on record review and interview on 05/30-06/01/01 it was determined the facility failed to ensure that all allegations of alleged sexual abuse were investigated for 3 of 3 allegations made. Review of a Facility Investigation Report dated 3/12/01 as well as the file, revealed Individual #1 alleged on 03/08/01, that the alleged perpetrator had sexually assaulted her. Review of the written statements for the investigation included a written statement by Staff H dated 3/09/01 that noted she had been told by Individual #1 and Individual 2 that the alleged perpetrator had "french kissed Individual #1." There was no evidence to indicate that this allegation had been investigated by the facility. Interview with the facility investigator on 06/01/01 at 3:40 pm revealed he did not look into the claim and that he had put the information in with the alleged sexual assault reported on 03/08/01 and he did not	W 154	W154 All allegations are being recorded in a log, verbatim in the order received. This log is kept by the Administrator and is reviewed by the Regional Administrator to ensure that all allegations are correctly identified and assigned to be investigated. Date of implementation by August 5, 2001.	

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45C897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 154	Continued From page 12 look at the issue as a separate issue. Also in the file was a document titled Addendum To 3-8-01 Investigation. The document noted that Individual #1 had told her mother that the alleged perpetrator had touched her breast during an outing to a football field. There were two written statements dated 03/13/01. One from the alleged victim and one from the alleged perpetrator. Both written statements contradicted each other. There was no other indication that this allegation had been investigated. Interview with the facility administrator on 06/01/01 at 3:00 pm revealed the allegation was not viewed as separate allegation because it seemed to him that "the story kept growing" so they considered the information all a part of the allegation made on 03/08/01. Review of the Facility Investigation Report for an allegation made on 03/08/01 of sexual abuse by the alleged perpetrator dated 03/12/01 revealed the allegation was unsubstantiated. Individual #1 alleged that she had been sexually assaulted after she and the alleged perpetrator went to a hardware store. The report noted that Individual #1 had a history of making similar allegations. There was no evidence in Individual #1's record to indicate she had such a history. The report noted that Individual #1 had made another allegation of having sex with her ex-boyfriend in the van at the workshop. Review of the written statements revealed that the allegation was made by the alleged perpetrator. Review of a written statement dated 03/12/01 by the ex-boyfriend noted that he denied the allegation. Interview with Individual #1 on 06/01/01 at 2:30 pm revealed she denied the allegation. Review of the facility	W 154		

INDIAN WELLS - 312

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 154	Continued From page 13 investigation file revealed a copy of the incident report dated 03/08/01 from a direct care staff at the facility and a written statement made by a workshop staff dated 03/09/01 that provided the same allegation was reported to both staff at the two settings. Interview with a workshop staff on 05/31/01 revealed that Individual #1 was absent from her class during the time she alleged that the sexual assault occurred. There was a receipt from the hardware store in the facility file with the time frame alleged by Individual #1 that the sexual assault occurred.	W 154		
W 155	483.420(d)(3) STAFF TREATMENT OF CLIENTS The facility must prevent further potential abuse while the investigation is in progress. This STANDARD is not met as evidenced by: Based on record review and interview on 5/30-6/01/01, it was determined the facility failed to ensure that Individuals in the company's owned and operated workshop were protected from the alleged perpetrator during an investigation of an allegation of sexual abuse for 1 of 1 allegations. The findings are: Review of an investigation file of an allegation of sexual abuse dated 3/12/01 revealed an Addendum to 3/8/01 Investigation. The addendum noted that Individual #1's mother made an allegation that the alleged perpetrator had sexually abused Individual #1. There were two written statements, one by the alleged victim, Individual #1, and the other the alleged perpetrator. There was no other written	W 155	W155 A policy has been implemented requiring the administrator to report all allegations of physical harm or sexual abuse to the police as well as TDHS. The policy further requires that no employee shall return to work while he/she is under investigation by either the police, TDHS or AHS. The State Quality Advisor will train the Administrator, Investigator, and QMRPs on this policy by August 5, 2001. All other staff will be trained on this policy by the Administrator (and/or designee) by August 5, 2001. All employees and consumers will be trained on a new Rights, Abuse and Neglect curriculum that includes understanding and exercising rights, understanding and identifying abuse and neglect, and reporting procedures for all components by August 5, 2001.	

INDIAN WELLS - 313

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 155	Continued From page 14 documentation. Interview with the facility investigator assigned to conduct the investigation on 6/1/01 at 2:40 pm revealed the alleged perpetrator continued to work at the workshop while he got the two written statements.	W 155		
W 156	483.420(d)(4) STAFF TREATMENT OF CLIENTS The results of all investigations must be reported to the administrator or designated representative or to other officials in accordance with State law within five working days of the incident. This STANDARD is not met as evidenced by: Based on interview and record review on 5/30-6/1/01, it was determined the facility failed to contact the local law enforcement agency after they received an allegation of sexual assault for 1 of 1 allegations involving Individual 1. The findings are: Review of the Facility Investigation Report dated 3/12/01 revealed that the space for police notification provided on the bottom of the page was not completed. Interview on 5/31/01 at 1:00 PM with the facility investigator assigned to complete the investigation revealed he did call the police but did not write down any information regarding the notification. Interview on 5/31/01 at 10:25 am with the investigating detective, of the local police department,	W 156	W156 Investigators will be in-serviced on investigation reporting procedures to include timely submission to State Agencies; the new policy on reporting all allegations of physical harm or sexual abuse to the police as well as to TDHS by August 5, 2001. A) Administrator (and/or designee) on ensuring that a Comprehensive Functional Assessment is completed, and completed in a timely manner by August 5, 2001. B) QMRP will receive training from Administrator (and/or designee) on the expectation of the development and implementation of IPP's 30-days after admission. Training to be completed by August 5, 2001. C) QMRP will receive training from Administrator (and/or designee) on expectations on ensuring that the training objectives reflect the need of the individual as identified in the comprehensive functional assessment. Training to be completed by August 5, 2001.	

PRINTED: 6/22/01
FORM APPROVED
OMB NO. 0938-0391

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH CARE FINANCING ADMINISTRATION

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER:	(X2) MULTIPLE CONSTRUCTION	(X3) DATE SURVEY COMPLETED
	45G897	A. BUILDING _____ B. WING _____	C 6/1/01

NAME OF PROVIDER OR SUPPLIER	STREET ADDRESS, CITY, STATE, ZIP CODE
INDIAN WELLS HOUSE	4702 INDIAN WELLS DRIVE AUSTIN, TX 78747

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETE DATE
W 156	Continued From page 15 assigned to the sexual assault case involving Individual 1, revealed the police department was first notified of the allegation by Individual 1 and her mother when they made the report to them on 3/14/01. Review of the Narrative Report from the police department dated 3/14/01 confirmed the interview. Review of a written statement dated 3/23/01 from Individual 1's mother to the local police department, noted that the officer who took the report "was very concerned that this incident had never been reported to the police department for a proper investigation." Interview with the facility administrator on 6/1/01 at 3:00 pm revealed the police were not notified because Individual 1 did not want police involvement at that time.	W 156	D) QMRP will receive training from Administrator (and/or designee) on expectations on ensuring that data relative to the IPP objectives is collected according to the frequency as required by the plan. Training to be completed by August 5, 2001. E) QMRP will receive training from Administrator (and/or designee) on expectations on receiving written informed consents prior to implementing Behavior Support Plans. Training to be completed by August 5, 2001. F) QMRP will receive training from Administrator (and/or designee) on expectations to ensure that prior to using a psychotropic medication, a less intrusive program was attempted. Training to be completed by August 5, 2001. G) QMRP will receive training from Administrator (and/or designee) on the expectation that we must demonstrate that the harmful effects of an individual's behavior outweigh the harmful effects of a psychotropic medication, prior to implementation. Training will be completed by August 5, 2001. H) QMRP will receive training from Administrator (and/or designee) on the expectation that the dinner menu must be followed and/or have ensured that proper food substitutions are provided. Training to be completed by August 5, 2001.	

INDIAN WELLS - 315